

more persons from said collected data and associating products and services for advertisement with said common physical characteristic while said two or more persons are at the public location;

*(C3  
cont'd)*

d) generating an advertisement related to products or services, said advertisement optimized for said two or more persons according to said common physical characteristic for said two or more persons at said public location; and,

e) transmitting said optimized advertisement to a communication device located at said public location for communicating said optimized advertisement to said two or more persons while at said public location.

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#### REMARKS

Reconsideration of the above-identified application, as amended, is respectfully requested.

In the Official Action dated September 19, 2002, the Examiner first rejected Claims 1-3, 5, 7, 13-18, 20, 22, 28-31, 33, 35 and 41 under 35 U.S.C. §102(e) as allegedly anticipated by or, in the alternative, under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,177,931 to Alexander et al. ("Alexander"). The Examiner did indicate an objection to Claims 4, 6, 8-12, 19, 21, 23-27, 32, 34 and 36-40 as being dependent upon a rejected base claim, but indicated these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The amendments to the claims in this response are being submitted for clarification purposes and prompted by the Examiner's application of the newly cited

Alexander reference. Applicants respectfully submit that all amendments are fully supported in the specification, and that no new matter has been added.

Specifically, Claims 5, 20 and 33 are being cancelled, and the subject matter thereof being incorporated in amended independent Claims 1, 16, and 29 to set forth the patentably distinguishable feature of a device (means) for obtaining visual images (such as video camera device 114 (See Figure 1, specification page 8, line 17-21) of people at a public location (such as a shopping mart or sports arena), collecting physical characteristics data (such as their physical appearances (hair color type, height, weight, etc.) (See specification page 20, lines 8-9); and extracting the physical characteristics that are common among the two or more persons from the collected data (e.g., women with red hair as described in an example provided in specification page 12, lines 12-21); generating an advertisement related to products or services that is optimized for the two or more persons according to the common physical characteristic (advertisement for shampoo for red heads); and, finally transmitting said optimized advertisement to a communication device located at said public location for communicating said optimized advertisement to the two or more persons while at the public location. Thus, in the applicants invention, it is not necessary to positively identify an individual(s), or obtain their history, it is enough to ascertain a common physical characteristic of a group of people so as to target an advertisement that may be of interest to that group based on their common characteristic obtained from a contemporaneously obtained visual image at the public location. Applicants respectfully submit that the amendments discussed above have additionally made all dependent claims allowable, and therefore respectfully request

the Examiner to withdraw objection/rejection of those claims under 35 USC §102(e) and alternatively 35 USC §103(a) in view of their dependence on Claims 1, 16 and 29.

With respect to the rejection of independent Claims 1, 16 and 29 under 35 USC §102(e) as anticipated by and alternatively 35 U.S.C. §103(a) as allegedly being unpatentable in view of Alexander, Applicants respectfully disagree for the following reasons as set forth below.

Alexander is related to Electronic Programming Guides (EPG's) for viewers of television programs. By receiving signals from a viewing location at the cable head end of a television system relating to the individual's viewing habits, and, in addition, Internet browsing habits, statistics are gathered, analyzed and, a user profile is generated comprising viewer characteristics. With a built viewer characteristics profile, an advertisement, customized for the viewer entity, may be generated and/or scheduled for transmission to the viewer over the television (cable) network.

Respectfully, the EPG system of Alexander clearly does not anticipate the present invention as herein set forth in Claims 1, 16 and 29 as amended. Alexander does not teach or suggest a step or device for obtaining visual images of two or more people at a public location. Monitoring viewing or Internet browsing habits does not anticipate or suggest obtaining visual image data of people at public locations. Furthermore, while the EPG system may "learn" some physical characteristic about the viewer, e.g., chronological age, the method taught by Alexander is not by visual means, nor is it suggestive of it. Furthermore, it appears that Alexander's system requires some sort of

initial positive identification as the viewer is queried to input some basic viewer profile information (See Alexander, col. 28, lines 23-29).

In addressing the basis for supporting the Examiner's rejection, it is respectfully submitted that the present invention set forth in amended Claims 1, 16 and 29 avoids the "principles of inherency" argument as indicated by the Examiner in paragraph 7 of the Office Action. This is because the reference invention (Alexander) does not necessarily perform the invention as claimed at a public location in that Alexander does not teach obtaining visual images of people as a threshold matter. Further with respect to the Examiner's argument in paragraph 8 of the Office Action as to giving "no weight" to prior claim wording "detected characteristics," the amended Claims 1, 16 and 29 avoids this argument by clearly and unambiguously setting forth common "physical characteristics" as being the basis upon which a customized advertisement may be generated for distribution to and transmission at a public location comprising a group of people.

In view of the foregoing, Applicants respectfully request the Examiner to withdraw rejection of independent Claims 1, 16 and 29, and their respective dependent claims under 35 USC §102(e) and alternatively 35 USC §103(a).

Attached hereto is a marked-up version of the changes made to the specification and claims by the present amendment. The attached marked-up version is captioned: "**VERSION WITH MARKINGS TO SHOW CHANGES MADE**".

In summary, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a

Notice of Allowance be issued. If the Examiner believes that a telephone conference with the Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Steven Fischman  
Registration No. 34,594

SCULLY, SCOTT, MURPHY & PRESSER  
400 Garden City Plaza  
Garden City, New York 11530  
(516) 742-4343

SF:gc

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE****IN THE CLAIMS:**

Please cancel claims 5, 20 and 33 without prejudice.

Please amend Claim 1 as follows:

1. (Thrice Amended) A system for generating an advertisement optimized for two or more persons located at a public location, said system comprising:

means for obtaining visual images [data relating to detected characteristics] of [said] two or more persons while engaged in a common activity at a public location;

processing means for contemporaneously receiving said obtained visual images [data], collecting physical characteristics data [relating to said detected characteristics] of said two or more persons based on said received data, and extracting [common elements from the detected] physical characteristics that are common among [of] said two or more persons from said collected data while said two or more persons are at the public location;

means for generating an advertisement related to products or services, said advertisement optimized for said two or more persons according to said common [elements] physical characteristics for said two or more persons at said public location; and,

means communicable with said processing means for transmitting said

optimized advertisement to a communication device located at said public location for communicating said optimized advertisement to said two or more persons while at said public location.

Please amend Claim 16 as follows:

16. (Thrice Amended) A method for generating an advertisement optimized for two or more persons located at a public location, said method comprising the steps of:

- a) obtaining visual images [data relating to detected characteristics] of [said] two or more persons while engaged in a common activity at a public location;
- b) collecting physical characteristics data [relating to said detected characteristics] of said two or more persons based on said obtained [data] visual images while said two or more persons are at the public location;
- c) extracting [common elements from the detected] physical characteristics [of] that are common among said two or more persons from said collected data and associating products and services for advertisement with said common physical characteristic [elements] while said two or more persons are at the public location;
- d) generating an advertisement related to products or services, said advertisement optimized for said two or more persons according to said common physical characteristic [elements] for said two or more persons at said public location; and,
- e) transmitting said optimized advertisement to a communication device located at said public location for communicating said optimized advertisement to said two or more persons while at said public location.

Please amend Claim 29 as follows:

29. (Thrice Amended) A program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform method steps for generating an advertisement optimized for two or more persons located at a public location, the method steps comprising:

- a) obtaining visual images [data relating to detected characteristics] of [said] two or more persons while engaged in a common activity at a public location;
- b) collecting physical characteristics data [relating to said detected characteristics] of said two or more persons based on said obtained visual images [data] while said two or more persons are at the public location;
- c) extracting [common elements from the detected] physical characteristics [of] that are common among said two or more persons from said collected data and associating products and services for advertisement with said common physical characteristic [elements] while said two or more persons are at the public location;
- d) generating an advertisement related to products or services, said advertisement optimized for said two or more persons according to said common physical characteristic [elements] for said two or more persons at said public location; and,
- e) transmitting said optimized advertisement to a communication device located at said public location for communicating said optimized advertisement to said two or more persons while at said public location.